

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

PILAR GOMEZ VASQUEZ,

Plaintiff,

V.

YENESSA AVALOS MALDONADO;
A&M DEEP CLEANERS, LLC;
UNITED STATES OF AMERICA;¹ AND
PARADIS, LLC,

Defendants.

Case No. 1:25-cv-00396

NOTICE OF REMOVAL AND SUBSTITUTION

Defendant United States of America files this Notice of Removal and Substitution under 28 U.S.C. § 2679(d)(2) and 28 U.S.C. § 1442, removing the action currently pending as Cause No. D-1-GN-23-000011 in the 98th Judicial District Court, Travis County, Texas. In support of this Notice of Removal, Defendant avers as follows:

On December 30, 2022, this action was filed as Cause No. D-1-GN-23-000011 in the 98th Judicial District Court, Travis County, Texas, entitled *Pilar Gomez Vasquez v. Yenessa Avalos Maldonado*. A copy of Plaintiff's Original Petition is attached as ***Exhibit 1***. In that Petition, Plaintiff Vasquez seeks to recover for personal injury resulting from an automobile accident involving Defendant Maldonado.

On April 26, 2024, Plaintiff filed an Amended Petition naming Defendant Michel Paradis as a defendant in this action. A copy of Plaintiff's Amended Petition is attached as ***Exhibit 2***. The United States has not been properly served with the Citation or Petition pursuant to Federal Rule

¹ Substituted for Defendant Michel Paradis by operation of law.

of Civil Procedure 4(i) and cannot waive service. Neither the Attorney General of the United States nor the United States Attorney for the Western District of Texas, have been served with a copy of the Summons or the Complaint.

Until proper service has been accomplished, the United States is not properly joined in this action, and no answer or responsive pleading is required. *See* Fed. R. Civ. P. 12(a)(2). The United States maintains and reserves all defenses with respect to defects in the service of process, and the United States may raise federal defenses to the Complaint.

Attached to this Notice of Removal and Substitution as ***Exhibit 3*** is a certification that Defendant Michel Paradis was acting within the scope of his federal employment at the time of the alleged incident giving rise to the Amended Petition. Because the Petition alleges that Plaintiff was injured by a federal employee acting within the scope of his employment on behalf of the United States, Plaintiff must proceed with this action, if at all, under the Federal Tort Claims Act (“FTCA”). The United States is the only proper defendant in an FTCA action. *See Galvin v. Occupational Safety & Health Admin.*, 860 F.2d 181, 183 (5th Cir. 1988). Substitution is required under the FTCA. *See Mitchell v. Carlson*, 896 F.2d 128, 130 (5th Cir. 1990) (“[O]nce the case is in federal court, the federal district court is required to substitute the United States as defendant in place of the federal employee, and the case proceeds ‘in the same manner as any action against the United States’, i.e., as a claim under the Federal Tort Claims Act.”). Therefore, the United States applies for an Order from the Court dismissing Michel Paradis as Defendant and substituting the United States in his place memorializing that the substitution that has occurred.

Pursuant to the provisions of 28 U.S.C. § 1446(d), a Notice of Filing of Notice of Removal will be filed with the 98th Judicial District Court, Travis County, Texas, a true and correct copy of which is attached as ***Exhibit 4***.

As required by Local Court Rule CV-3(a), a JS 44 Civil Cover Sheet and Supplement to JS 44 Civil Cover Sheet for Cases Removed from State District Court are attached as ***Exhibits 5*** and **6**.

The United States of America provides this Notice that the action now pending as Cause No. D-1-GN-23-000011 in the 98th Judicial District Court, Travis County, Texas against Defendant United States is timely removed to this Court.

Dated: March 17, 2025

Respectfully submitted,

Margaret F. Leachman
Acting United States Attorney

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***Attorneys for Defendant
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CERTIFICATE OF SERVICE

I certify that on March 12, 2025, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system and mailed this document by United States Postal Service and by e-mail to the following:

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